VIRGINIA:

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

In Re: Estate of Crandal Mackey
Assessment of Virginia Inheritance Tax.

Application for Relief From Such Assessment

To: The Honorable Circuit Court of Arlington County,
Your petitioner, Harry R. Thomas, respectfully states as follows:

1. That he is a citizen of the United States, and a resident of Arlington County, Virginia, residing at 920 North Jefferson Street, in said County.

2. That Crandal Mackey, a citizen of the United States and of the Commonwealth of Virginia, late a resident of and domiciled in Arlington County, Virginia, died therein on March 31, 1957, leaving a last will and testament which was duly admitted to probate by this Court on April 9, 1957.

3. That your petitioner was named therein as Executor of the said will and of the estate of the said Crandal Mackey.

4. That your petitioner duly qualified as such Executor in the office of the Clerk of this Court on April 9, 1957, and has acted and continues to act as such Executor.

5. That your petitioner is aggrieved by an assessment of Virginia Inheritance Taxes made against the said Estate of the said Crandal Mackey and against your petitioner, as Executor thereof, by the State Tax Commissioners of Virginia, in the following respects:

(a) By Assessment No. 4103-58, dated June 27 1958, and recorded in Page 374, at line 8, of the records of assessments, the said State Tax Commissioners levied an inheritance tax against said Estate of Crandal Mackey in the total amount of $20,378.26.

(b) Your petitioner alleges that the said tax of $20,378.26 was based upon a total assessment for Virginia inheritance tax purposes which erroneously included an amount of $263,100.00. Your petitioner relates that the said sum of $263,100.00, consisting of U. S. currency commonly known as paper money was owned by the said Crandal Mackey and was located at the time of his death, in a Safe Deposit box in his name, in the Second National Bank in Washington, District of Columbia.

(c) Your petitioner further alleges that the said sum of $263,100.00 in money as aforesaid, was tangible personal property and was not located within the State of Virginia; that it was not a proper subject of assessment for inheritance taxes by the State Tax Commissioners of Virginia; that the said State Tax Commission of Virginia was and is without authority in law to impose such an assessment; that the said assessment is in violation of the laws of Virginia and of the Constitution and laws of the United States in that it is lacking in due process of law and denies to your petitioner the equal protection of law, as guaranteed to him by said Constitution; and that the assessment so imposed, and herein complained of, is utterly void and of no effect.

(d) It is further alleged that the total inheritance tax assessed by said Commissioners, amounted to $20,378.26; that the correct amount of such tax, excluding from the assessment the item of $263,100.00 herein complained of, would have been $13,795.33; that your petitioner has paid to the Treasurer of Virginia the said sum of $13,795.33; and that the difference of $6,582.93 between the tax so assessed and the tax so paid, arises exclusively from the inclusion in the total assessment of the said sum of $263,100.00 herein complained of.

(e) Your petitioner further relates that the taxing authority of the District of Columbia has included the said sum of $263,100.00 in its assessment of inheritance taxes

against the estate of the said Crandal Mackey, in the District of Columbia; and the resulting tax has been paid by said District.

WHEREFORE, your petitioner makes application, in accordance with the provisions of Section 58-182 and related statutes, of the Code of Virginia, for the entry by this Honorable Court, of such Order or Orders as may be requisite, exonerating the Estate of the said Crandal Mackey and himself, as Executor thereof, from payment of the sum of $6,582.93, with all interest and penalties thereon, erroneously charged and assessed as inheritance taxes against said Estate, as related in the foregoing application.

HARRY R. THOMAS
Harry R. Thomas, *Executor*
Estate of Crandal Mackey

HARRY LEE THOMAS
Harry Lee Thomas, and
LAWRENCE W. DOUGLAS
Lawrence W. Douglas
Attorneys for Applicant
404 Arlington Trust Bldg.
Arlington, Virginia

NOTICE

To: HON. WILLIAM J. HASSAN
Attorney for the Commonwealth
Arlington County, Virginia

To: THE DEPARTMENT OF TAXATION
Commonwealth of Virginia
Richmond, Virginia

To: HON. H. BRUCE GREEN
Clerk of the Circuit Court
Arlington County, Virginia

Please take notice that the attached application for relief from an erroneous assessment of Virginia inheritance

taxes has been filed in the office of the Clerk of the Circuit Court of Arlington County, Virginia, and that on Monday, December 29, 1958, at 10 o'clock A.M., or as soon thereafter as he may be heard, the undersigned will present said application to the Circuit Court of the said County of Arlington, Virginia, in the Court Room thereof, in the County Court House in said County.

GIVEN under my hand this 20 day of November, 1958.

HARRY R. THOMAS
Harry R. Thomas, *Executor*
Estate of Crandal Mackey.

I hereby certify that on the 20 day of November, 1958, I mailed to the Department of Taxation, Commonwealth of Virginia, Richmond Virginia, by U.S. Registered Mail, postage prepaid, a copy of the foregoing and attached application and notice.

LAWRENCE W. DOUGLAS
Lawrence W. Douglas
of Counsel for applicant.

Legal and timely service of the
foregoing and attached certification
is hereby accepted this Nov. 20th, 1958.

WILLIAM J. HASSAN
Commonwealth Attorney

H. BRUCE GREEN
County Clerk of
Arlington County, Va.

Filed Dec. 10, 1958

VIRGINIA:

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

Law 6967

Application for
Correction of Erroneous Assessment

HARRY R. THOMAS, Executor of the Estate of
CRANDAL MACKEY, *Applicant*,

v.

COMMONWEALTH OF VIRGINIA, *Respondent*.

Answer of the Commonwealth of Virginia

The Answer of the Commonwealth of Virginia to an application for correction of the erroneous assessment of inheritance taxes filed by Harry R. Thomas, Executor of the Estate of Crandal Mackey.

The Commonwealth, reserving to herself the benefit of all just exceptions to the said application, for answer thereto, or to so much thereof as she is advised that it is material she should answer, answers and avers:

1. Respondent admits as being true the allegations in paragraphs numbered 1 through 4 of the application.

2. Respondent admits as being true the allegations in paragraph numbered 5(a).

3. Respondent avers in answer to the allegations in paragraph numbered 5(b) that she has correctly included the sum of $263,100.00, consisting of U.S. currency, commonly known as paper money owned by Crandal Mackey and located in a safe deposit box in his name in the Second National Bank in Washington, D. C., in the total assessment for Virginia inheritance tax purposes.

4. Respondent avers in answer to the allegations in paragraph numbered 5(c) that the said sum of $263,100.00 in currency aforesaid, was intangible personal property,

the situs of which for assessment of Virginia inheritance taxes was at the place of residence of the decedent owner, Crandal Mackey, at the time of his death.

5. Respondent avers in answer to the allegations contained in paragraph numbered 5(d) that the total inheritance tax assessed by the State Tax Commissioner of Virginia amounted to $20,378.26; that this is the correct amount of such tax; that the applicant has paid to the Treasurer of Virginia the sum of $13,795.33; that the applicant has not paid the amount of $6,582.93 which represents the proper amount of inheritance tax upon the sum of $263,100.00 in currency owned by the decedent Crandal Mackey at the time of his death.

6. Respondent neither denies nor admits the allegations made in paragraph number 5(e) of the application, and demands strict proof thereof.

And now, having fully answered the applicant's application for correction of erroneous assessment of inheritance taxes, the Commonwealth prays for this Honorable Court to find that the assessment made by the Commonwealth is correct and that the applicant be required to pay the remaining inheritance taxes due the Commonwealth of Virginia in the amount of $6,582.73, plus interest from June 30, 1958, until paid, as prescribed by § 58-177 of the Code of Virginia.

COMMONWEALTH OF VIRGINIA

By: C. H. MORRISSETT
C. H. Morrissett
State Tax Commmissioner of Virginia

C. F. HICKS
C. F. Hicks
Assistant Attorney General of Virginia
Supreme Court Building
Richmond, Virginia
Counsel for the Commonwealth

IN RE: ESTATE of CRANDAL MACKEY At Law No. 6967

THE 23rd day of March 1959 came Harry Lee Thomas, Esquire, and Lawrence W. Douglas, Esquire, counsel for the Petitioner herein and John Wingo Knowles, Esquire, Assistant Attorney General, counsel for the Commonwealth of Virginia.

WHEREUPON the Court heard argument of counsel for both sides on the Application and answer filed herein and upon consideration whereof took the case under advisement. Entered this 23rd day of March, 1959.

WILLIAM D. MEDLEY
Judge

IN THE CIRCUIT COURT OF ARLINGTON COUNTY, VIRGINIA

IN RE: ESTATE of CRANDAL MACKEY At law No. 6967

Memorandum

FROM: WILLIAM D. MEDLEY, *Judge*

TO: Lawrence Douglas, Counsel for Petitioner
Harry Lee Thomas, Counsel for Petitioner
C. F. Hicks, Assistant Attorney General, Counsel for Commonwealth of Virginia
William J. Hassan, Commonwealth Attorney for Arlington County

THIS CASE came on to be heard upon the application for relief from assessment of Virginia Inheritance Tax, answer of the Commonwealth of Virginia, argument of counsel and authorities cited.

THE SOLE ISSUE presented to the Court for determination was whether certain personal property, hereinafter described, was tangible or intangible personal property.

UPON CONSIDERATION WHEREOF it is the opinion of the Court that the sum of $263,100.00, consisting of United

States Currency commonly known as paper money, owned by Crandall Mackey and located, at the time of his death, in a safe deposit box in his name, in the Second National Bank in Washington, District of Columbia, was intangible personal property and a proper subject of assessment for inheritance tax by the State Tax Commissioner of Virginia.

An Order should be prepared pursuant to this memorandum and, after endorsement by counsel of record, presented for entry.

June 3, 1959.

William D. Medley
Judge

VIRGINIA:

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

At Law No. 6967

Harry R. Thomas, Executor of the Estate of Crandal Mackey, *Applicant*,

v.

Commonwealth of Virginia, *Respondent*.

Order

This Case came on to be heard on March 23, 1959, upon the application for relief from assessment of Virginia Inheritance Tax, filed pursuant to the provisions of § 58-182 *et seq.*, of the Code of Virginia, the answer of the Commonwealth of Virginia, the testimony of witnesses and the arguments of counsel for the Applicant and of the Assistant Attorney General for the Commonwealth, and

Upon Consideration Whereof the Court being of the opinion that the sum of $263,100.00, consisting of United States Currency, commonly known as paper money, owned by Crandal Mackey and located, at the time of his death,

in a safe deposit box in his name, in the Second National Bank in Washington, District of Columbia, was intangible personal property and a proper subject of assessment for inheritance tax by the State Tax Commissioner of Virginia, it is

ORDERED that the application for relief be, and the same hereby is, denied, and it is further

ORDERED that Harry R. Thomas, Executor of the Estate of Crandal Mackey shall pay, out of the assets of said Estate now in his hands, to the Treasurer of Virginia the sum of $6,582.93, balance of inheritance tax due the Commonwealth of Virginia, with interest thereon at the rate of one per centum per month from June 30, 1958, until paid; and it is further

ORDERED that the respondent Commonwealth of Virginia recover of the Applicant its proper costs in this behalf expended.

ENTERED this 29th day of June, 1959.

WILLIAM D. MEDLEY
Judge

We ask for this:

JOHN W. KNOWLES
Assistant Attorney General

WILLIAM J. HASSAN
Commonwealth's Attorney for
for Arlington County
Of Counsel for the Commonwealth
of Virginia

Seen and Objected to:

LAWRENCE DOUGLAS
Lawrence Douglas
HARRY LEE THOMAS
Harry Lee Thomas
Counsel for Applicant

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Friday the 27th day of November, 1959.

The petition of Harry R. Thomas, Executor of the Estate of Crandal Mackey, for a writ of error to a final order entered by the Circuit Court of Arlington County on the 29th day of June, 1959, in a certain proceeding then therein depending, entitled, In Re: Estate of Crandal Mackey—Assessment of Virginia Inheritance Tax, having been maturely considered and a transcript of the record of the order aforesaid seen and inspected, the court being of opinion that the said order is plainly right, doth reject said petition, and refuse said writ of error, the effect of which is to affirm the order of the said circuit court.

A copy Teste:

H. G. TURNER
Clerk